

1 2 pages

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8
9 UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
10

11 In re Case No. 10-23608-C-7

12 JAMES WALDEN TYSINGER, JR.
13 LESLIE ANN TYSINGER

14 Debtors

15 Date: April 13, 2010
Time: 9:30 a.m.
Judge: Christopher M. Klein
Dept.: C, Ctrm 35
501 I St., 6th. Floor
Sacramento, CA

16
17 MOTION TO COMPEL TRUSTEE
18 / TO ABANDON BUSINESS

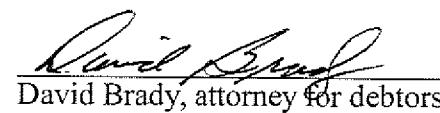
19 James Tysinger, Jr., debtor herein, moves this court for an order compelling the Trustee,
20 John Reger, to abandon the business operated by the debtor, known as Dr. James Tysinger, MD,
21 Ophthalmologist, located at 345 Hickory St., Red Bluff, California. The business is the debtor's
22 sole source of income and has no non-exempt assets. There are no employees. It is of no actual
23 value for the bankruptcy estate, but is burdensome to the trustee and the estate, in that the sole
24 source of income from it is from the debtor's personal efforts. The Trustee has informed the
25 debtor and his counsel that the business has no value to the estate and is a liability to him and the
26 estate.

1 There is no goodwill or other value in either business that could be sold by anyone,
2 including the debtor and the Trustee.

3 The debtor, James Tysinger, Jr. therefore, requests that the Trustee be directed to
4 abandon the business known as, Dr. James Tysinger, MD, Ophthalmologist and for such other
5 relief as may be appropriate.

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7 Dated: 3/3/10



David Brady, attorney for debtors

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12 EASTERN DISTRICT OF CALIFORNIA

13 In re

14 Case No. 10-23608-C-7

15 JAMES WALDEN TYSINGER, JR.
16 LESLIE ANN TYSINGER

17 DCN: DMB-1

18 Debtors

19 Date: April 13, 2010
20 Time: 9:30 a.m.
21 Judge: Christopher M. Klein
22 Dept.: C, Ctrm 35
23 501 I St., 6th. Floor
24 Sacramento, CA

25 NOTICE OF MOTION TO
26 COMPEL TRUSTEE TO
ABANDON BUSINESS

27
28 A hearing will be held at the time and place set forth above on the motion of the debtors
29 for an order requiring the Trustee, John Reger, to abandon the bankruptcy estate's interest in Dr.
30 James Tysinger, MD, Ophthalmologist operated by James Tysinger, Jr. on the grounds that the
31 estate's interest in the business, if any, is of no value and is a burdensome asset to the estate.

32 A copy of the motion and supporting documents may be inspected during normal
33 business hours at the offices of the Clerk of this court, 501 "I" Street, Room 3-200, Sacramento,
34 California or the office of the attorney for the moving party, David Brady, The Law Office of
35 Dennis K. Cowan, 280 Hemsted Drive, Suite B, Redding, California. It may also be obtained via
36

1 the Internet from the WebPACER service accessed through the court's website
2 (www.caeb.uscourts.gov). Any opposition to this motion must be in writing and filed with the
3 Clerk and served on the moving party's attorney at least fourteen calendar days before the hearing
4 date or a continued hearing date at the above street address or the following mail address: Law
5 Office of Dennis K. Cowan, P.O. Box 992090, Redding, CA 96099-2090.

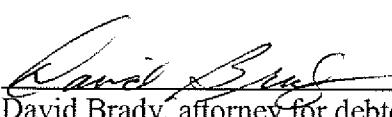
6 Any opposition making factual allegations must be accompanied by evidence
7 establishing such factual allegations. The opposition must also specify whether the responding
8 party consents to the court's resolution of disputed material factual issues pursuant to Federal
9 Rule of Civil Procedure Rule 43(e), which allows the motion to be decided without the taking of
10 oral testimony. If the responding party does not so consent, then the opposition filed must include
11 a separate statement identifying each disputed material factual issue, or the responding party will
12 be deemed to consent to resolution of the motion without the taking of oral testimony.

13 A responding party who has no opposition to the granting of the motion may serve and
14 file a statement to that effect. Without good cause, no party will be heard in opposition to a
15 motion at oral argument if written opposition to the motion has not been timely filed. Failure of a
16 responding party to timely file written opposition may be deemed a waiver of any opposition to
17 the granting of the motion or may result in the imposition of sanctions.

18 Responding parties should consult the Rules of Bankruptcy Procedure and the Local
19 Rules of this court, including Local Rule 9014-1, for additional information regarding procedure.
20

21 Dated:

22 By:


23 David Brady, attorney for debtors
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15 LESLIE ANN TYSINGER

16 DCN: DMB-1

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18 Date: April 13, 2010
19 Time: 9:30 a.m.
20 Judge: Christopher M. Klein
21 Dept.: C, Ctrm 35
22 501 I St., 6th. Floor
23 Sacramento, CA

24 DECLARATION OF JAMES
25 TYSINGER, JR. IN SUPPORT OF
26 MOTION TO COMPEL TRUSTEE
27 TO ABANDON BUSINESS

28 James Tysinger, Jr. declares as follows:

29 I am one of the debtors in this case. I have read the motion and the facts stated in it are
30 true. I operate an ophthalmology practice known as Dr. James Tysinger, MD, Ophthalmologist. The
31 business, Dr. James Tysinger, MD, Ophthalmologist, produces an average gross income of
32 approximately \$9,543.00 per month and has operating expenses for materials and supplies of
33 approximately \$7,941.00 per month. The modest amount of equipment and supplies are the only
34 assets of the business.

1 business assets and are claimed to be exempt.

2 The Trustee, John Reger, has informed me that he perceives that the business has no
3 value to the estate and is only a liability to him and the estate.

4 Executed at Redding, Shasta County, California on the date set forth below. I declare
5 under penalty of perjury that the foregoing is true and correct.

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7 Dated:

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James Tysinger, Jr.

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23 Sacramento, CA

24 DECLARATION OF JOHN
25 REGER IN SUPPORT OF
26 MOTION TO COMPEL TRUSTEE
27 TO ABANDON BUSINESS

28 /
29 John Reger, declares as follows:

30 I am the trustee herein. I have read the foregoing motion filed herewith and the
31 supporting documents. I have examined the debtor and investigated the debtor's businesses
32 sufficiently to be convinced that the businesses have no value to the bankruptcy estate and are
33 only a liability to the estate.

Executed in Redding, Shasta county, California. I declare under penalty of perjury that
the foregoing is true and correct.

Dated:

By:

John Reger, Trustee